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REMARKS/ARGUMENTS

Claims 1-3, 5-7 and 10-24 are pending in the present application. Reconsideration is respectfully requested for the following reasons.

Claim 15 was objected to as being dependant upon a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. This claim has been so rewritten and Applicants wish to thank the Examiner for this indication of allowable subject matter.

Claims 11-16 were amended to replace the "back shell" with the "back panel" for antecedent basis as recited in claim 1.

The Office Action rejected claims 1-3, 7, 10, 11, 19-21 and 24 under 35 U.S.C. §102(b) as being anticipated by Massara et al. This rejection is respectfully traversed for the following reasons. In order for the claim to be anticipated under 35 U.S.C. §102, each and every element as set forth in the claim must be found in a single prior art reference. M.P.E.P. §2131. In proceedings before the Patent and Trademark Office, the Examiner bears the burden of establishing a prima facie case of anticipation based on the prior art. *In re Sun*, 31 USPQ 2d 1451, 1453 (Fed. Cir. 1993) (unpublished). Applicants respectfully assert that the Examiner has not met his burden of establishing a prima facie case of anticipation with respect to the rejected claims.

Claims 1 and 20 recite, and the references do not teach, "the back panel including a stiff top section, a stiff bottom section and a flexible lumbar section."

The Office Action stated that Massara '466 includes a "stiff top section, a stiff bottom section and a flexible lumbar section as seen in Fig. 1." However, Massara '466 does not include a stiff top or a stiff bottom section. Massara '466 states that a flexible support plate 34 is connected to the seat back frame 18 and has a first portion 40 and second portion 42. With regard to a stiff bottom section, Massara '466 explains that support plate 34 includes first portion 40 . . . "for deforming and extending outwardly from the seat back frame" (column 2, lines 66-67). Further, Massara '466 states that a center U-shaped cut-out 45 is provided in the first end 36 and extends longitudinally inward to allow bending and flexibility of the plate 34 at the first end 36. Since first portion 40 is described as "generally adjacent the first end 36"

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(column 3 lines 4-5), first portion 40 is bendable and flexible, not stiff. With regard to the stiff top section, second portion 42 is also described as being flexible in that rotating means 46 is utilized for bending and pivoting second portion 42 of plate 34 (column 2, lines 36-39). Therefore, it is clear that Massara '466 does not include either a stiff top section (42) or a stiff bottom section (40). Instead, Massara discloses a top and bottom section which allow bending and pivoting, or bending and flexibility. Further, there is no suggestion in Massara '466 to include a top and bottom section which are stiff. Still further, Massara '466 teaches away from this stiffness because top section 42 and bottom section 40 must be flexible and bendable to allow support plate 34 to conform over bladders 28 and 30. This is clearly depicted in Figs. 2-4. If Massara '466 included a stiff bottom section, which as defined includes section 40, section 40 would not be adjustable, thereby making the flexible membrane back support inoperable. Further, if the top section of Massara was stiff, then rotating means 46 would be inoperable.

Claim 1 also recites "a bladder attached to the stiff top and bottom sections and spanning the flexible lumbar section of the flexible back panel." Claim 20 recites, "a constrictable energy mechanism operably coupled to the stiff top and bottom sections and spanning the flexible lumbar section of the flexible back panel."

The Office Action stated that Massara '466 included a bladder (28) that can be attached to the stiff top and bottom sections." As described above, Massara '466 does not utilize either a stiff top or a stiff bottom section and therefore, the bladder cannot be attached to a stiff top or bottom section. Further, Massara '466 does not include a bladder which is at attached to the flexible support plate at all, let alone connected to the top and bottom sections. This is described in column 2, lines 45-47, wherein the fluid bladders 28 and 30 are explained as being "connected to the frame 18 at the central cross bar or support plate 24." The specification further states that "the support plate 34 includes a first portion 40 operatively connected against and over expansion means 26" (column 2, lines 65-66). Therefore, first portion 40 is not connected to the bladders. This is also clearly depicted in Figs. 2-4.

Further, there is no suggestion in Massara '466 to include such a feature and still further, Massara '466 teaches away from this feature due to the operation of support plate 34

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requiring flexible ends and the ability to ride over the bladders to conform or adjust. Therefore, Applicants submit that claims 1 and 20 are in condition for allowance and respectfully request allowance thereof.

Dependent claims 2, 3, 7, 10, 11, 19, 21 and 24 are dependant upon base claims 1 and 20 and are allowable for that reason. Moreover, Applicant respectfully submits that these claims are allowable since they define nonobvious combinations of the subject matter of claims 1 and 20. Therefore, Applicants respectfully submit that claims 2, 3, 7, 10, 11, 19, 21 and 24 are also in condition for allowance and Applicants respectfully request allowance thereof.

Claims 5, 6 and 23 were rejected under 35 U.S.C. §103(a) as being unpatentable over Massara in view of Ishida et al.; claim 10 was rejected under 35 U.S.C. §103(a) as being unpatentable over Massara in view of Peterson; claim 16 was rejected under 35 U.S.C. §103(a) as being unpatentable over Massara in view of Schrewe et al.; and claims 17 and 18 are rejected under 35 U.S.C. §103(a) as being unpatentable over Massara in view of Green. These claims are all dependant upon allowable base claims 1 and 20 and are allowable for that reason. Moreover, Applicants respectfully submit that these claims are allowable since they define nonobvious combinations of the subject matter of claims 1 and 20. In proceedings before the Patent and Trademark Office, the Examiner bears the burden of establishing a prima facie case of obviousness based on the prior art. *In re Fritch*, 23 USPQ 2d 1780, 1783 (Fed. Cir. 1992). M.P.E.P. §2142. Applicants respectfully assert that the Examiner has not met his burden of establishing a prima facie case of obviousness with respect to the rejected claims. Therefore, Applicants respectfully submit that claims 5, 6, 10, 16-18 and 23 are in condition for allowance and Applicants respectfully request allowance thereof.

Applicants request that the finality of the recent Office Action be withdrawn because claim 22 was listed as being rejected in the Office Action summary, but the reason for rejecting claim 22 was not listed in the detailed action. Hence, Applicants cannot adequately respond to this rejection. Nonetheless, it is noted that claim 22 is dependant on allowable claim 20 and is allowable for that reason. Moreover, Applicants respectfully submit that this claim is allowable since it defines a nonobvious combination of the subject matter of claim 20.

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Therefore, Applicants submit that claim 22 is allowable and respectfully request allowance thereof.

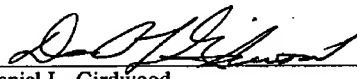
It is believed that the above represents a complete response to the Office Action and reconsideration is requested, specifically, Applicants respectfully submit that the application is condition for allowance and respectfully requests allowance thereof.

Respectfully submitted,

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Mar 11, '04
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